

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

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U.S. DISTRICT COURT, CHARLESTON, SC

Michael D. Goins,

2015 APR 15 P 4: 05

Petitioner,

Civil Action No. 4:14-cv-2062-RMG

v.

**ORDER**

Warden Larry Cartledge,

Respondent.

This matter is before the Court on the Report and Recommendation of the Magistrate Judge recommending that this Court dismiss Petitioner's Petition for Writ of Habeas Corpus. (Dkt. No. 36). The Court hereby adopts the Report and Recommendation, grants Respondent's Motion to Dismiss (Dkt. No. 20), and dismisses the petition.

Michael Goins is a state prisoner who filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Magistrate Judge issued a *Roseboro* order advising Petitioner of the motion for summary judgment and dismissal procedures, and Petitioner filed a response. (Dkt. No. 24). The Court issued an order on January 5, 2015, advising the parties that the court would construe the motion to dismiss as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. The Magistrate judge then issued the R&R, recommending that the Respondent's motion be granted, on February 11, 2015. Upon the issuance of the R&R, Petitioner was advised that any written objections to the R&R must be made within 14 days of service, and that in the absence of timely written objections this Court would provide limited "clear error" review and Plaintiff would waive his right to appeal the judgment of the District Court. (Dkt. No. 36-1). Neither party filed an objection to the R&R. Petitioner filed a "Sur Reply" to Respondent's Reply to Petitioner's Response to the motion on February 20, 2015,

which merely reiterates his earlier arguments that he should not have been deprived of the opportunity to earn good time credits as a result of his conviction for Offense 854, Exhibitionism and Public Masturbation.

The Court has reviewed the R&R, the full administrative record in this matter and the relevant legal authorities. The Court finds that the Magistrate Judge ably and promptly summarized the factual and legal issues and appropriately recommended that the action should be dismissed, since, having lost the opportunity to earn good credit for the relevant time period due to a prior violation, the infraction complained of had no effect on Petitioner's incarceration. Therefore, the Court hereby **ADOPTS** the R&R as the order of this Court, **GRANTS** Respondent's Motion for Summary Judgment, and **DISMISSES** the petition.

#### **Certificate of Appealability**

The governing law provides that:

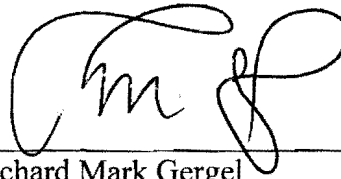
(c)(2) A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.

(c)(3) The certificate of appealability . . . shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

28 U.S.C. § 2253(c). A prisoner satisfies the standard by demonstrating that reasonable jurists would find this Court's assessment of his constitutional claims debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. *See Miller-El v.*

*Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683 (4th Cir. 2001). In this case, the legal standard for the issuance of a certificate of appealability has not been met. Therefore, a certificate of appealability is **DENIED**.

**AND IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'R. M. Gergel', written over a horizontal line.

Richard Mark Gergel  
United States District Court Judge

April 15, 2015  
Charleston, South Carolina